

No. 05-10-00911-CV

In the Court of Appeals
For the Fifth Judicial District
Dallas, Texas

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LISA MATZ
Clerk

Original Proceeding from No. 102717-CC
in the 422nd Judicial District Court of Kaufman County,
Texas

In Re Ashley Pardo and Daniel Pardo,
Individually
and as Next Friend for K.D.P., A Minor Child,

RELATORS

OBJECTION TO RELATORS' EMERGENCY MOTION TO SUSPEND
ORDER PENDING RULING ON PETITION FOR WRIT OF
MANDAMUS

To The Honorable Justices of the Court of Appeals:

The Texas Department of Family and Protective Services, real party in interest, submits this Objection to Relators' Emergency Motion to Suspend Order Pending Ruling on Petition for Writ of Mandamus. Through this Response, the Department will show that Relators' requested relief should be denied as they fail to

demonstrate that the child is adversely affected by allowing the temporary orders to remain in effect while their petition for mandamus is pending.

Procedural History

The Department filed its *Original Petition for Protection of A Child, For Conservatorship, and for Termination in Suit Affecting the Parent-Child Relationship* on June 20, 2019. APPENDIX A. The Department attached to its Original Petition an Affidavit in Support of Removal which detailed that the concerns by the medical professionals that the child's mother was insisting that the child have a surgery to install a G-tube that was unnecessary. APPENDIX B. The affidavit detailed other instances in which the Relator mother insisted that the child has medical conditions that were undiagnosed or entirely ruled out. *Id.* During the investigations, Relators became uncooperative and refused to allow the Department to see the child. *Id.*

A Summary of the Evidence from the Adversary Hearing

A full adversary hearing was held on July 2, 2019. RR 1:passim¹. The evidence at the adversary hearing demonstrated that:

- Four year old, K.D.P. was taken to be seen by multiple doctors and specialists. RR 1:12-13, 18, 23, 36, 210. He was subjected to multiple tests and studies all based on reporting by Ashley Pardo. RR 106-07.
- Despite the Relators' admission that the child ran and played like a normal child, the Relator's insisted that the child had been diagnosed

¹ All references to record relate to the record of the Adversary Hearing held on July 2, 2019 attached to Relators' *Petition for Writ of Mandamus*.

with cerebral palsy, autism, and that the child required a wheelchair. RR 1:11, 13-17, 36, 52, 72, 84-85. The wheelchair, according to Ashley, was to be used “as community use” or like a stroller so he could sit when he got tired. RR 1:52.

- The child had been eating solid food; however, based on reports by Relators regarding the child’s ability to properly chew safely and swallow solid foods, the child was subjected to additional testing and the Relator’s insisted that the child have an invasive surgical procedure to insert an unnecessary Gastrostomy Tube (G-tube). RR 1:17-18, 21-23, 54-55. After much insistence and reporting, a second doctor, not Dr. Anderson, the child’s original gastrointestinal doctor, put in a NG nasal feeding tube. RR 1:19-20, 24, 56.
- Dr. Anderson was the child’s original gastrointestinal (GI) doctor. RR 1:18-19. He was the child’s doctor from almost birth to just recently. RR 1:68. Relators claimed they changed the child’s GI doctor because they did not agree with the care Dr. Anderson was providing. RR 1:19. Dr. Anderson was of the opinion that the child did not need the Gastrostomy Tube and that is why the family asked to see another physician. RR 1:121. After much insistence and reporting, a separate doctor put in a nasogastric tube (NG), a nasal feeding tube. RR 1:19-20, 24, 56.
- Once in the Department’s care, the child was taken to Children’s Hospital where he was running around, playing, and acting like a normal little boy. RR 1:29, 167. He did not use a wheelchair or the leg braces. RR 1:101. K.D.P. was “immediately” eating solid foods. RR 1:29-30, 55, 169-70.
- The doctors involved in treating K.D.P. contacted Dr. Dakil with their concerns after reviewing the chart. RR 1:96. They were concerned that the push for additional feeding support was going to result in an unnecessary procedure and surgery for the child, and that was “alarming to us; and so we felt that when the family chose not to be readmitted for additional evaluation, we felt that we didn’t have any other choice but to contact CPS.” RR 1:96.
- After reviewing all of the medical records from Children’s hospital and the records from Dr. Hernandez and Dr. Sacco, child abuse pediatrician Dr. Suzanne Dakil, was concerned for medical child abuse due to excessive medical care by the child’s parents. RR 1:94-95, 113-14.

- Dr. Dakil testified that once the parents found out that she had been called, they asked to leave the hospital because they were upset that a child abuse pediatrician had been involved. RR 1:119.
- According to Dr. Dakil, Dr. Mittal, the treating physician in April 2019, was clear in her discussion with the parents about her concerns of medical child abuse. RR 1:119-20. After Dr. Mittal sat down and spoke to the parents about why the wheelchair was unnecessary and why the feeding tube was unnecessary, the parents went to a new GI doctor, were admitted and got the nasogastric tube. RR 1:120.
- Dr. Dakil testified that, based on her review of the medical records, “it seems like [Ashley Pardo] reports a variety of things that are subjective, that no one else can see, and that has been a pattern that has persisted for a very long time.” RR 1:147. She explained that “it puts [K.D.P.] in the sick space. It puts him with these potential diagnoses that may or may not be correct, and that’s detrimental to his long term growth and development.” RR 1:147.
- Dr. Dakil was of the opinion that the family needed someone else, a grandparent, aunt, uncle, best friend, who could observe the child and confirm the Relators’ reports about the child’s health in order to be in a “better place” and make appropriate medical decisions for the child. RR 1:152-53.
- Ashley Pardo agreed that if the trial court orders the medical team at Children’s to direct the treatment of the child, she would be “absolutely” comfortable with that. RR 1:158. She was “more than happy to continue and follow” the medical advice of Dr. Dakil and the doctors at Children’s Medical. RR 1:158. She stated that they would “absolutely respect” the medical recommendations from the doctors at Children’s Medical regarding the gastrostomy tube. RR 1:157-58. Ashley was also willing to participate with Children’s Medical, meet with them, confer, give information, and follow their instructions. RR 1:158. Daniel Pardo agreed to submit to a psychological evaluation. RR 1:31.
- Tabitha Sims, Department investigator, testified that she became concerned for the child’s safety and well-being after speaking with Dr. Dakil on June 7, 2019. RR 1:165. Dr. Dakil was concerned that the Relators would “go someplace else and get the tube.” RR 1:140.

At the conclusion of the adversary hearing held pursuant to TEX. FAM. CODE § 262.201, the trial made findings in accordance § 262.201(g). The trial court granted the Department's request to be appointed temporary managing conservator of the child and appointed the Relators temporary possessory conservators of the child. APPENDIX 3.

Relators' Requested Emergency Relief

Relator's state in their request for an emergency stay, "[n]o party will be adversely affected by this requested stay". RELATORS' STAY 2. The Department agrees that the Relators are not adversely affected by the Temporary Orders. However, as to the child, the trial court has made the requisite findings that:

Having examined and reviewed the Department's pleadings and the sworn affidavit accompanying the petition and based upon the facts contained therein and the evidence presented to this Court at the hearing conducted on this date, the Court finds there is sufficient evidence to satisfy a person of ordinary prudence and caution that: (1) there was a danger to the physical health or safety of the child which was caused by an act or failure to act of the person entitled to possession. The Court further finds that it is contrary to the welfare of the child, K.D.P. to remain in the home of ASHLEY PARDO or of DANIEL PARDO, and; (2) the urgent need for protection required the immediate removal of K.D.P. and reasonable efforts consistent with the circumstances and providing for the safety of K.D.P., were made to eliminate or prevent the removal of K.D.P.; and (3) reasonable efforts have been made to enable K.D.P. to return to the home of ASHLEY PARDO or of DANIEL PARDO, but there is a substantial risk of a continuing danger if K.D.P. is returned to the home of ASHLEY PARDO or of DANIEL PARDO. Further, the Court does make a finding of family violence as defined by Texas Family Code Section 71.004.

APPENDIX 3; *See* TEX. FAM. CODE 262.201 (g) and (i). These findings were in large part based on the testimony of Dr. Dakil, the child abuse pediatrician who opined that the child was medically abused due to excessive medical care by the child's parents and who at the time of the adversary hearing was being observed at the hospital.

The trial court had a statutory duty to make the requisite findings for removal. It made findings of immediate danger, which are within its jurisdiction and statutory authority to make. The plain meaning of the trial court's findings defy Relators' assertion that there is no harm in granting the stay, when the court in fact found that there was a danger to the physical health and safety of the child that required an immediate removal of the child from Relators and a continuing danger to the child.

In addition, courts are authorized under the Texas Family Code § 262.201(h) to issue appropriate temporary orders for the safety and welfare of a child under Chapter 105 to include services which would promote reunification. Here the court ordered:

- ASHLEY PARDO and DANIEL PARDO shall participate and follow medical treatment plans for K.D.P. as recommended by Children's Medical Center.
- ASHLEY PARDO and DANIEL PARDO shall provide the Department with a social history and any other information the Department requires.
- ASHLEY PARDO and DANIEL PARDO shall provide any other information to the Department or Children's Medical Center that may be needed for treatment and care for K.D.P.
- ASHLEY PARDO and DANIEL PARDO shall sign a release of information pertaining to all medical records of K.D.P. to the Department and provide

the Department with a list of the names and addresses of the physicians who have treated K.D.P.

- If there is a new diagnosis, ASHLEY PARDO and DANIEL PARDO will follow treatment plan recommended by Children's Medical Center.

APPENDIX 3. In fact, in their testimony, the Relators both agreed to the court's temporary orders of which they now complain. Ashley Pardo agreed that if the trial court orders the medical team at Children's to direct the treatment of the child, she would be "absolutely" comfortable with that. RR 1:158. She was "more than happy to continue and follow" the medical advice of Dr. Dakil and the doctors at Children's Medical. RR 1:158. She stated that they would "absolutely respect" the medical recommendations from the doctors at Children's Medical regarding the gastrostomy tube. RR 1:157-58. Ashley was also willing to participate with Children's Medical, meet with them, confer, give information, and follow their instructions. RR 1:158. Daniel Pardo agreed to submit to a psychological evaluation. RR 1:31.

The bulk of Relators' argument focuses on how the trial court's order affects them without explaining how the child is adversely affected by continuing to receive the high quality of care he is currently receiving. RELATORS EMERGENCY STAY 2. The focus, as in all case involving the best interest of children, should be on the child and ensuring that the child gets the best medical care possible and any claim or assertion that the child is adversely affected by the medical care he is receiving would fail. The child is in no way harmed by receiving the care he is receiving, by

and through, the professionals at Children's Hospital and while in the temporary managing conservatorship of the Department. This care must continue.

Because Relators argument focuses solely on how they are affected by the temporary orders, they fail to demonstrate how providing the child with the medical care they agreed to support at the adversary hearing, now requires an emergency stay of the trial court's temporary orders pending resolution of the petition for mandamus. Any stay of the trial court's temporary orders could negatively impact the child. Relators request for emergency stay should, in all things, be denied.

PRAYER

For the reasons set out in this response, the Department respectfully requests that this Honorable Court deny *Relators' Emergency Motion to Suspend Order Pending Ruling on Petition for Writ of Mandamus*.

Respectfully Submitted,

s/ Brenda L. Kinsler
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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the foregoing
was sent to each individual below, *via* Email on August 5, 2019:

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APPENDICES

APPENDIX TO BRIEF OF APPELLEE

Real Party in Interest, Texas Department of Family and Protective Services, submits these documents in support of its *Objection to Relators' Emergency Motion to Suspend Order Pending Ruling on Petition for Writ of Mandamus*.

LIST OF DOCUMENTS

1. *Original Petition For Protection of A Child, for Conservatorship, And for Termination In Suit Affecting the Parent-Child Relationship* Tab 1
2. *Affidavit In Support Of Removal* Tab 2
3. *Temporary Order Following Adversary Hearing* Tab 3

APPENDIX 1

**NOTICE: THIS DOCUMENT
CONTAINS SENSITIVE DATA**

102717-CC

CAUSE NO. _____

IN THE INTEREST OF

K.P.

A CHILD

§
§
§
§
§

IN COUNTY COURT
Kaufman County - County Court at Law
AT LAW

KAUFMAN COUNTY, TEXAS

**ORIGINAL PETITION FOR PROTECTION OF A CHILD,
FOR CONSERVATORSHIP, AND FOR TERMINATION
IN SUIT AFFECTING THE PARENT-CHILD RELATIONSHIP**

This *Original Petition for Protection of a Child, for Conservatorship, and for Termination in Suit Affecting the Parent-Child Relationship* is brought by the Department of Family and Protective Services ("the Department"), whose address is 2525 E. US Hwy 175, Ste. E, Kaufman, Texas 75142 for the purposes of § 30.015, Texas Civil Practice and Remedies Code. The Department has standing to bring this suit under §§ 102.003(5) and 262.001, Texas Family Code.

1. Discovery Level

Discovery in this case is intended to be conducted under Level 2, subject to the discovery limitations provided by Rule 190.3, unless modified by order pursuant to Rule 190.5, Texas Rules of Civil Procedure.

2. Jurisdiction

- 2.1. This Court has jurisdiction of the suit affecting the parent-child relationship and of the suit for protection of a child under Chapter 262, Texas Family Code, and Petitioner believes no other Court has continuing, exclusive jurisdiction over the child.
- 2.2. In accordance with § 155.101(a), Texas Family Code, the Department will request that the Vital Statistics Unit identify the court that last had continuing, exclusive jurisdiction, or confirm that the child has not been the subject of a suit resulting in a court of continuing jurisdiction.
- 2.3. Information required by § 152.209 of the Texas Family Code is provided in the affidavit attached to this petition. This Court has emergency and/or home state jurisdiction under the Uniform Child Custody Jurisdiction and Enforcement Act.

3. The Child:

The following child is the subject of this suit:

Name: [REDACTED]
Sex: **Male**
Birth Date: [REDACTED]
Indian Child Status: **Unknown**

4. Parties to be Served

4.1. The mother of the child the subject of this suit is:

Party: **ASHLEY PARDO**
Date of Birth: [REDACTED]
Address: [REDACTED]

The Department requests that process be served at that address or in Court.

4.2. The alleged father of the child [REDACTED] is:

Party: **DANIEL PARDO**
Date of Birth: [REDACTED]
Address: [REDACTED]

The Department requests that process be served at that address or in Court.

4.3. To the best of the Department's knowledge, there are no Court-ordered conservatorships, guardianships, or other court-ordered relationships affecting the child the subject of this suit.

5. Information on Protective Orders

To the best of the Department's knowledge, there are no protective orders in effect or applications pending, as described in § 102.008(b)(11), Texas Family Code, in regard to a party to the suit or a child of a party to the suit.

6. Interstate Compact on the Placement of Children

A verified statement of compliance with Subchapter B, Chapter 162, Texas Family Code, as required by § 162.002, Texas Family Code will be filed at a later time should one be required.

7. Property Owned by the child

No property of consequence is owned or possessed by the child the subject of this suit.

8. Reasonable Efforts to Reunify Family

- 8.1. The Department made reasonable efforts, consistent with time and circumstances prior to the child's removal and prior to the placement of the child in foster care, to prevent or eliminate the need for removal of the child and the Department has made reasonable efforts to make it possible for the child to return home.
- 8.2. The Department will make reasonable efforts to eliminate the need for the child's removal and to enable the return of the child to the parent.

9. Request for Permission to Take Possession of Child in an Emergency

- 9.1. There is an immediate danger to the physical health or safety of the child, or the child has been the victim of neglect or sexual abuse. Continuation in the home would be contrary to the child's welfare. There is no time consistent with the physical health or safety of the child for a full adversary hearing, and reasonable efforts, consistent with the circumstances and providing for the safety of the child were made to prevent or eliminate the need for removal of the child.
- 9.2. The Department has attached to this Petition an affidavit setting out the facts of this case.
- 9.3. The Department requests emergency orders and/or attachments required to gain possession of the child as authorized by §262.101, Texas Family Code.

10. Temporary Managing Conservatorship

The Department requests that the court immediately, without notice or an adversary hearing, appoint the Department as temporary sole managing conservator of the child as provided in Chapter 262 and § 105.001(a)(1) and (h), Texas Family Code.

11. Required Information

- 11.1. The Department requests that each Parent, Alleged Father or Relative of the child before the Court provide the full name and current address or whereabouts and phone number of any absent parent of the child the subject of this suit pursuant to Rule 194, Texas Rules of Civil Procedure and §262.201, Texas Family Code.
- 11.2. The Department requests that each Parent, Alleged Father or Relative of the child before the Court submit the Child Placement Resources Form provided under § 261.307, if the form has not previously been provided and provide the Department and the Court the full name and current address or whereabouts and phone number of any and all relatives of the child the subject of this suit with whom the Department may place the child during the pendency of this suit, pursuant to Rule 194, Texas Rules of Civil Procedure, and § 262.201, Texas Family Code.

- 11.3. The Department requests that each parent of the child the subject of this suit furnish information sufficient to accurately identify that parent's net resources and ability to pay child support along with copies of income tax returns for the past two years, any financial statements, bank statements, and current pay stubs, pursuant to Rule 196, Texas Rules of Civil Procedure, and § 154.063, Texas Family Code.
- 11.4. The Department requests that each parent of the child the subject of this suit provide to the Department and the Court evidence of health insurance available for the child, pursuant to Rule 196, Texas Rules of Civil Procedure, and § 154.182, Texas Family Code.
- 11.4.1. Further that if private health insurance is in effect, the Department requests that each parent provide the identity of the insurance company, the policy number, which parent is responsible for the payment of any insurance premium, whether the coverage is provided through a parent's employment, and the cost of such premium.
- 11.4.2. If private health insurance is not in effect, the Department requests that each parent provide information on whether the child is receiving medical assistance under chapter 32 Human Resource Code; or the child is receiving health benefits coverage under the state child health plan under chapter 62, Health and Safety Code and the cost of any premium or if either parent has access to private health insurance at reasonable cost to the parent.
- 11.5. The Department requests that each Respondent provide the Department and the Court information sufficient to establish the parentage and immigration status of the child, including but not limited to marriage records, birth or death certificates, baptismal records, Social Security cards, records of lawful permanent residence ("green cards"), naturalization certificates, or any other records from the United States Citizenship and Immigration Services, and records of Indian ancestry or tribal membership, pursuant to Rule 196, Texas Rules of Civil Procedure.
- 11.6. The Department requests that each Respondent furnish to the Department all information necessary to ensure the Department has an adequate medical history for the child, including but not limited to immunization records and the names and addresses of all treating physicians. The Department requests the Court order each parent to provide information regarding the medical history of the parent and parent's ancestors on the medical history report form, pursuant to § 161.2021, Texas Family Code.
- 11.7. The Department requests that each parent of the child provide any information regarding whether the child has Native American heritage and identify any Native American tribe with which the child may be associated and provide all available family history information relevant to determination of Indian child status on request.

- 11.8. The Department requests that, at the full adversary hearing in this cause, the Court order the Respondents to execute an authorization for the release of the Respondents' medical and mental health records to the Department, and to further provide the Department with a list of the names and addresses of the physicians and mental health providers who have treated the Respondents.

12. Determination of Parentage: DANIEL PARDO

- 12.1. The Department requests the Court to determine whether **DANIEL PARDO** is the father of **K.P.** pursuant to Chapter 160, Texas Family Code.
- 12.2. If the allegation of parentage is admitted, the Court should waive genetic testing and enter temporary orders, including orders for temporary support of the child pursuant to § 160.624, Texas Family Code.
- 12.3. If **DANIEL PARDO** appears and any party denies paternity, the Court should immediately order the alleged father, and the child to submit to genetic testing pursuant to § 160.502 Texas Family Code.
- 12.4. **DANIEL PARDO**, on final hearing, if adjudicated to be the father, should be ordered to pay retroactive support pursuant to § 154.009, Texas Family Code.
- 12.5. If any party denies the presumption that a man presumed to be the father of the child is in fact the biological father of the child subject of this suit, the Department requests that the Court order genetic testing and pretrial proceedings as provided by Chapter 160, Texas Family Code, if such testing is permitted by that chapter.

13. Request for Temporary Orders

At the full adversary hearing under §262.201, Texas Family Code, the Court should render temporary orders under §105.001, Texas Family Code, to include but not be limited to:

- 13.1. a provision appointing the Department temporary sole managing conservator of the child, with all of the rights and duties listed in § 153.371, Texas Family Code, pending the final disposition of this suit;
- 13.1.1. a provision authorizing the Department to consent to medical care for the subject child, pursuant to § 266.004, Texas Family Code;
- 13.2. a provision authorizing the Department or its employee or designee to consent to medical care of the child, pursuant to § 266.004, Texas Family Code;
- 13.3. a provision pursuant to §154.001(b), Texas Family Code, ordering the parents of the child to make payments for the temporary support of the child, pending final

disposition of this suit, these child support payments to be withheld from their disposable earnings;

- 13.4. a provision that any child support ordered to be paid for the support of the child K.P. [REDACTED] as a result of any prior court orders be ordered to be redirected and paid to the Texas Department of Family and Protective Services.
- 13.5. a provision ordering the parents of the child to submit to the Department the Child Placement Resources Form required under § 261.307, Texas Family Code;
- 13.6. a provision ordering the parents of the child to comply with each requirement set out in the Department's original, or any amended, service plan during the pendency of this suit, as provided by §§ 263.106 and 153.602, Texas Family Code;
- 13.7. a provision ordering the Respondents to provide the Court and the Department with a current residence address and telephone number at which each can be contacted;
- 13.8. a provision ordering the Respondents to notify the Court and the Department of any change in his or her residence address or telephone number within five (5) days of a change of address or telephone number.

14. Reunification

- 14.1. The Department will make reasonable efforts to eliminate the need for the child's removal and to enable the return of the child to a parent.
- 14.2. If the child cannot be safely reunified with either parent, then the Department will seek alternative relief as described in the sections below.

15. Permanent Conservatorship and Support of the Child

15.1. Conservatorship

- 15.1.1. Pursuant to §§ 153.005 and 263.404, Texas Family Code, if the child cannot safely be reunified with either parent, but may be permanently placed with a relative or other suitable person, the Department requests that the Court appoint the person as permanent sole managing conservator of the child; if the child cannot safely be reunified with either parent or permanently placed with a relative or other suitable person, the Department requests that the Court appoint the Department as permanent sole managing conservator of the child.
- 15.1.2. Pursuant to § 153.131, Texas Family Code, the appointment of a parent as permanent managing conservator of the child is not in the child's best

interest, because the appointment would significantly impair the child's physical health or emotional development.

15.1.3. Pursuant to § 153.191, Texas Family Code, the appointment of a parent as permanent possessory conservator of the child is not in the best interest of child and parental possession or access would endanger the physical or emotional welfare of the child.

15.1.4. If conservatorship is awarded under this section, the application of the guidelines for possession and access to the child, as set out in §§ 153.311, *et seq.*, Texas Family Code, would not be in the child's best interest. The parents of the child, as possessory conservators of the child, should have limited access to and possession of the child, under conditions and restrictions prescribed by the Court for the best interests of the child.

15.2. Support

15.2.1. Each parent should be ordered to make payments for the support of the child in accordance with § 154.001(b), Texas Family Code, including retroactive support if appropriate, determined pursuant to § 154.131, Texas Family Code, and in a manner specified by the Court under Chapter 154, Texas Family Code. The payments for the support of the child should survive the death of either parent and become the obligation of the deceased Parent's estate.

15.2.2. Each parent should be ordered to provide health insurance for the child in accordance with §§ 154.182 and 154.183, Texas Family Code.

15.2.3. If any parent is found to be in arrears in child support or medical support payments ordered in this or in any other action, a judgment for enforcement of said arrearage should be issued against that parent pursuant to §§ 157.261, 158.003 and 158.004, Texas Family Code.

16. Termination of ASHLEY PARDO'S Parental Rights

If reunification with the mother cannot be achieved, the Court should terminate the parent-child relationship between **ASHLEY PARDO** and the child, **K.P.** the subject of this suit under Chapter 161, Texas Family Code, if both of the following are shown:

16.1. **ASHLEY PARDO** has committed any of the following acts or omissions:

16.1.1. voluntarily left the child alone or in the possession of another not the parent and expressed an intent not to return, pursuant to § 161.001(b)(1)(A), Texas Family Code;

- 16.1.2. voluntarily left the child alone or in the possession of another not the parent without expressing an intent to return, without providing for the adequate support of the child, and remained away for a period of at least three months, pursuant to § 161.001(b)(1)(B), Texas Family Code;
- 16.1.3. voluntarily left the child alone or in the possession of another without providing adequate support of the child and remained away for a period of at least six months, pursuant to § 161.001(b)(1)(C), Texas Family Code;
- 16.1.4. knowingly placed or knowingly allowed the child to remain in conditions or surroundings which endanger the physical or emotional well-being of the child, pursuant to § 161.001(b)(1)(D), Texas Family Code;
- 16.1.5. engaged in conduct or knowingly placed the child with persons who engaged in conduct which endangers the physical or emotional well-being of the child, pursuant to § 161.001(b)(1)(E), Texas Family Code;
- 16.1.6. failed to support the child in accordance with the mother's ability during a period of one year ending within six months of the date of the filing of the petition, pursuant to § 161.001(b)(1)(F), Texas Family Code;
- 16.1.7. abandoned the child without identifying the child or furnishing means of identification, and the child's identity cannot be ascertained by the exercise of reasonable diligence, pursuant to § 161.001(b)(1)(G), Texas Family Code;
- 16.1.8. contumaciously refused to submit to a reasonable and lawful order of a court under Subchapter D, Chapter 261, Texas Family Code, pursuant to § 161.001(b)(1)(I), Texas Family Code;
- 16.1.9. been the major cause of: (1) the failure of the child to be enrolled in school as required by the Education Code; or (2) the child's absence from the child's home without the consent of the parents or guardian for a substantial length of time or without the intent to return, pursuant to § 161.001(b)(1)(J), Texas Family Code;
- 16.1.10. executed before or after the suit is filed an unrevoked or irrevocable affidavit of relinquishment of parental rights as provided by Chapter 161, Texas Family Code, pursuant to § 161.001(b)(1)(K), Texas Family Code;
- 16.1.11. been convicted or has been placed on community supervision, including deferred adjudication community supervision, for being criminally responsible for the death or serious injury of a child under the following sections of the Penal Code, or under a law of another jurisdiction that contains elements that are substantially similar to the elements of an offense under one of the following Penal Code Sections, or adjudicated under Title 3 for conduct that caused the death or serious injury of a child

and that would constitute a violation of one of the following Penal Code sections:

- § 19.02 (murder)
- § 19.03 (capital murder)
- § 19.04 (manslaughter)
- § 21.11 (indecent with a child)
- § 22.01 (assault)
- § 22.011 (sexual assault)
- § 22.02 (aggravated assault)
- § 22.021 (aggravated sexual assault)
- § 22.04 (injury to a child, elderly individual, or disabled individual)
- § 22.041 (abandoning or endangering child)
- § 25.02 (prohibited sexual conduct)
- § 43.25 (sexual performance by a child)
- § 43.26 (possession or promotion of child pornography)
- § 21.02 (continuous sexual abuse of a young child or children)
- § 20A.02(a)(7) or (8) (trafficking)
- § 43.05(a)(2) (compelling prostitution)

- 16.1.12.had her parent-child relationship terminated with respect to another child based on a finding that the mother's conduct was in violation of § 161.001(b)(1)(D) or (E), Texas Family Code, or substantially equivalent provisions of the law of another state, pursuant to § 161.001(b)(1)(M), Texas Family Code;
- 16.1.13.constructively abandoned the child who has been in the permanent or temporary managing conservatorship of the Department of Family and Protective Services for not less than six months and: (1) the Department has made reasonable efforts to return the child to the mother; (2) the mother has not regularly visited or maintained significant contact with the child; and (3) the mother has demonstrated an inability to provide the child with a safe environment, pursuant to § 161.001(b)(1)(N), Texas Family Code;
- 16.1.14.failed to comply with the provisions of a court order that specifically established the actions necessary for the mother to obtain the return of the child who has been in the permanent or temporary managing conservatorship of the Department of Family and Protective Services for not less than nine months as a result of the child's removal from the parent under Chapter 262 for the abuse or neglect of the child, pursuant to § 161.001(b)(1)(O), Texas Family Code;
- 16.1.15.used a controlled substance, as defined by Chapter 481, Health and Safety Code, in a manner that endangered the health or safety of the child, and (1) failed to complete a court-ordered substance abuse treatment program; or

(2) after completion of a court-ordered substance abuse treatment program continued to abuse a controlled substance, pursuant to § 161.001(b)(1)(P), Texas Family Code;

16.1.16.knowingly engaged in criminal conduct that has resulted in the mother's conviction of an offense and confinement or imprisonment and inability to care for the child for not less than two years from the date of filing the petition, pursuant to § 161.001(b)(1)(Q), Texas Family Code;

16.1.17.been the cause of the child being born addicted to alcohol or a controlled substance, other than a controlled substance legally obtained by prescription, as defined by § 161.001(a)(1) and § 161.001(a)(2), Texas Family Code, pursuant to § 161.001(b)(1)(R), Texas Family Code.

16.1.18.has been convicted of:

16.1.18.1.the murder of the other parent of the child under § 19.02 or 19.03, Penal Code, or under a law of another state, federal law, the law of a foreign country, or the Uniform Code of Military Justice that contains elements that are substantially similar to the elements of an offense under § 19.02 or 19.03, Penal Code; or

16.1.18.2.criminal attempt of the murder of the other parent of the child under § 15.01, Penal Code, or under a law of another state, federal law, the law of a foreign country, or the Uniform Code of Military Justice that contains elements that are substantially similar to the elements of an offense under § 15.01, Penal Code; or

16.1.18.3.criminal solicitation for the murder of the other parent of the child under § 15.03, Penal Code, or under a law of another state, federal law, the law of a foreign country, or the Uniform Code of Military Justice that contains elements that are substantially similar to the elements of an offense under § 15.03, Penal Code;

16.1.18.4.the sexual assault of the other parent of the child under §§ 22.011 or 22.021, Penal Code, or under a law of another state, federal law, or the Uniform Code of Military Justice that contains elements that are substantially similar to the elements of an offense under §§ 22.011 or 22.021, Penal Code;

16.1.19.been placed on community supervision, including deferred adjudication community supervision, or another functionally equivalent form of community supervision or probation, for being criminally responsible for the sexual assault of the other parent of the child under §§ 22.011 or 22.021, Penal Code, or under a law of another state, federal law, or the Uniform Code of Military Justice that contains elements that are

substantially similar to the elements of an offense under §§ 22.011 or 22.021, Penal Code;

16.1.20. The Court should terminate the parent-child relationship between **ASHLEY PARDO** and the child the subject of this suit under §161.003, Texas Family Code, because **ASHLEY PARDO** has a mental or emotional illness or a mental deficiency that renders the mother unable to provide for the physical, emotional, and mental needs of the child and will continue to render the mother unable to provide for the child's needs until the 18th birthday of the child, despite at least six months of reasonable efforts to return the child to the parent, pursuant to § 161.003, Texas Family Code.

16.1. **AND** that termination of the parent-child relationship is in the child's best interest.

17. Termination of Alleged Father DANIEL PARDO'S Parental Rights

The Department requests that the Court terminate the parent-child relationship between **DANIEL PARDO**, the alleged father, and **K.P. [REDACTED]**, a child the subject of this suit, under § 161.002, Texas Family Code, if any of the following is shown:

- 17.1. After being served with citation, he has not responded by timely filing an admission of paternity or a counterclaim for paternity under Chapter 160;
- 17.2. He has not registered with the paternity registry under Chapter 160, Texas Family Code; or
- 17.3. He has registered with the paternity registry under Chapter 160, Texas Family Code, but the Department's attempt to personally serve citation at the address provided to the registry and at any other address for the alleged father known by the Department has been unsuccessful, despite the due diligence of the Department.

If **DANIEL PARDO** appears and is established as the father, or is determined to be the presumed father, and reunification with the father cannot be achieved, the Court should terminate the parent-child relationship between **DANIEL PARDO** and the child **K.P. [REDACTED]** under Chapter 161, Texas Family Code, if both of the following are shown:

- 17.4. **DANIEL PARDO** has committed any of the following acts or omissions:
 - 17.4.1. voluntarily left the child alone or in the possession of another not the parent and expressed an intent not to return, pursuant to § 161.001(b)(1)(A), Texas Family Code;
 - 17.4.2. voluntarily left the child alone or in the possession of another not the parent without expressing an intent to return, without providing for the

adequate support of the child, and remained away for a period of at least three months, pursuant to § 161.001(b)(1)(B), Texas Family Code;

17.4.3. voluntarily left the child alone or in the possession of another without providing adequate support of the child and remained away for a period of at least six months, pursuant to § 161.001(b)(1)(C), Texas Family Code;

17.4.4. knowingly placed or knowingly allowed the child to remain in conditions or surroundings which endanger the physical or emotional well-being of the child, pursuant to § 161.001(b)(1)(D), Texas Family Code;

17.4.5. engaged in conduct or knowingly placed the child with persons who engaged in conduct which endangers the physical or emotional well-being of the child, pursuant to § 161.001(b)(1)(E), Texas Family Code;

17.4.6. failed to support the child in accordance with the father's ability during a period of one year ending within six months of the date of the filing of the petition, pursuant to § 161.001(b)(1)(F), Texas Family Code;

17.4.7. abandoned the child without identifying the child or furnishing means of identification, and the child's identity cannot be ascertained by the exercise of reasonable diligence, pursuant to § 161.001(b)(1)(G), Texas Family Code;

17.4.8. voluntarily, and with knowledge of the pregnancy, abandoned the mother of the child beginning at a time during her pregnancy with the child and continuing through the birth, failed to provide adequate support or medical care for the mother during the period of abandonment before the birth of the child, and remained apart from the child or failed to support the child since the birth, pursuant to § 161.001(b)(1)(H), Texas Family Code;

17.4.9. contumaciously refused to submit to a reasonable and lawful order of a court under Subchapter D, Chapter 261, Texas Family Code, pursuant to § 161.001(b)(1)(I), Texas Family Code;

17.4.10. been the major cause of: (1) the failure of the child to be enrolled in school as required by the Education Code; or (2) the child's absence from the child's home without the consent of the parents or guardian for a substantial length of time or without the intent to return, pursuant to § 161.001(b)(1)(J), Texas Family Code;

17.4.11. executed before or after the suit is filed an unrevoked or irrevocable affidavit of relinquishment of parental rights as provided by Chapter 161, Texas Family Code, pursuant to § 161.001(b)(1)(K), Texas Family Code;

17.4.12. been convicted or has been placed on community supervision, including deferred adjudication community supervision, for being criminally

responsible for the death or serious injury of a child under the following sections of the Penal Code, or under a law of another jurisdiction that contains elements that are substantially similar to the elements of an offense under one of the following Penal Code Sections, or adjudicated under Title 3 for conduct that caused the death or serious injury of a child and that would constitute a violation of one of the following Penal Code sections:

- § 19.02 (murder)
- § 19.03 (capital murder)
- § 19.04 (manslaughter)
- § 21.11 (indecent with a child)
- § 22.01 (assault)
- § 22.011 (sexual assault)
- § 22.02 (aggravated assault)
- § 22.021 (aggravated sexual assault)
- § 22.04 (injury to a child, elderly individual, or disabled individual)
- § 22.041 (abandoning or endangering child)
- § 25.02 (prohibited sexual conduct)
- § 43.25 (sexual performance by a child)
- § 43.26 (possession or promotion of child pornography)
- § 21.02 (continuous sexual abuse of a young child or children)
- § 20A.02(a)(7) or (8) (trafficking)
- § 43.05(a)(2) (compelling prostitution)

17.4.13.had his parent-child relationship terminated with respect to another child based on a finding that the father's conduct was in violation of § 161.001(b)(1)(D) or (E), Texas Family Code, or substantially equivalent provisions of the law of another state, pursuant to § 161.001(b)(1)(M), Texas Family Code;

17.4.14.constructively abandoned the child who has been in the permanent or temporary managing conservatorship of the Department of Family and Protective Services for not less than six months and: (1) the Department has made reasonable efforts to return the child to the father; (2) the father has not regularly visited or maintained significant contact with the child; and (3) the father has demonstrated an inability to provide the child with a safe environment, pursuant to § 161.001(b)(1)(N), Texas Family Code;

17.4.15.failed to comply with the provisions of a court order that specifically established the actions necessary for the father to obtain the return of the child who has been in the permanent or temporary managing conservatorship of the Department of Family and Protective Services for not less than nine months as a result of the child's removal from the parent under Chapter 262 for the abuse or neglect of the child, pursuant to § 161.001(b)(1)(O), Texas Family Code;

- 17.4.16.used a controlled substance, as defined by Chapter 481, Health and Safety Code, in a manner that endangered the health or safety of the child, and (1) failed to complete a court-ordered substance abuse treatment program; or (2) after completion of a court-ordered substance abuse treatment program continued to abuse a controlled substance, pursuant to § 161.001(b)(1)(P), Texas Family Code;
- 17.4.17.knowingly engaged in criminal conduct that has resulted in the father's conviction of an offense and confinement or imprisonment and inability to care for the child for not less than two years from the date of filing the petition, pursuant to § 161.001(b)(1)(Q), Texas Family Code;
- 17.4.18.voluntarily delivered the child to a designated emergency infant care provider under § 262.302, Texas Family Code, without expressing an intent to return for the child, pursuant to § 161.001(b)(1)(S), Texas Family Code;
- 17.4.19.has been convicted of:
- 17.4.19.1.the murder of the other parent of the child under § 19.02 or 19.03, Penal Code, or under a law of another state, federal law, the law of a foreign country, or the Uniform Code of Military Justice that contains elements that are substantially similar to the elements of an offense under § 19.02 or 19.03, Penal Code;
 - 17.4.19.2.the criminal attempt of murder of the other parent of the child under § 15.01, Penal Code, or under a law of another state, federal law, the law of a foreign country, or the Uniform Code of Military Justice that contains elements that are substantially similar to the elements of an offense described above;
 - 17.4.19.3.the criminal solicitation of murder of the other parent of the child under § 15.03, Penal Code, or under a law of another state, federal law, the law of a foreign country, or the Uniform Code of Military Justice that contains elements that are substantially similar to the elements of an offense described above;
 - 17.4.19.4.the sexual assault of the other parent of the child under §§ 22.011 or 22.021, Penal Code, or under a law of another state, federal law, or the Uniform Code of Military Justice that contains elements that are substantially similar to the elements of an offense under §§ 22.011 or 22.021, Penal Code;
- 17.4.20.been placed on community supervision, including deferred adjudication community supervision, or another functionally equivalent form of community supervision or probation, for being criminally responsible for the sexual assault of the other parent of the child under §§ 22.011 or

22.021, Penal Code, or under a law of another state, federal law, or the Uniform Code of Military Justice that contains elements that are substantially similar to the elements of an offense under §§ 22.011 or 22.021, Penal Code;

17.4.21. The Court should terminate the parent-child relationship between **DANIEL PARDO** and the child the subject of this suit under §161.003, Texas Family Code, because **DANIEL PARDO** has a mental or emotional illness or a mental deficiency that renders the father unable to provide for the physical, emotional, and mental needs of the child and will continue to render the father unable to provide for the child's needs until the 18th birthday of the child, despite at least six months of reasonable efforts to return the child to the parent, pursuant to § 161.003, Texas Family Code.

17.5. **AND** that termination of the parent-child relationship is in the child's best interest.

18. Attorney Ad Litem and Guardian Ad Litem for the Child

18.1. The immediate appointment of an attorney *ad litem* for the child is required by § 107.012, Texas Family Code.

18.2. The immediate appointment of a guardian *ad litem* to represent the interests of the child is required by § 107.011, Texas Family Code.

18.3. Petitioner would show the Court that the Department possesses information which may be essential to the work of the attorney *ad litem* and guardian *ad litem*, but which cannot be provided, except by direction of this Court, without the editing required by § 261.201(g), Texas Family Code. Resource limitations will result in substantial delay in providing the information if the editing must be done before release. The release of all files, reports, records, communications and working papers used or developed in the investigation or in the providing of services to the child the subject of this suit to the attorney *ad litem* and guardian *ad litem* is in the best interests of the child, is essential to the administration of justice, and is not likely to endanger the life or safety of any person. If the Court determines that release of the information to the attorney *ad litem* and guardian *ad litem*, as officers of the Court, without editing should be made, the Department requests that appropriate orders be made to prevent further disclosure of the information.

19. Attorneys for Parents and Respondents; Payment of Attorney Ad Litem Fees and Expenses

19.1. Indigent Parent

If a parent responds in opposition to this suit affecting their parent-child relationship and appears without attorney, the Department requests that the Court determine whether the parent is indigent. If the Court determines that the parent

is indigent, the appointment of an attorney *ad litem* to represent the interests of that parent is required by § 107.013, Texas Family Code. The Court may appoint one attorney to represent both indigent parents if the parents' interests are not in conflict.

19.2. Parent with Mental or Emotional Illness or Deficiency

If termination of parental rights is sought due to the inability of a parent to provide for the physical, emotional, and mental needs of the child due to mental or emotional illness or deficiency, the appointment of an attorney *ad litem* to represent the parent is required by § 161.003(b), Texas family Code.

19.3. Other Parents Entitled to Appointment of Attorney Ad Litem

19.3.1. If a parent is served with citation by publication or service is not required pursuant to § 161.002(c) or (d), Texas Family Code, the appointment of an attorney *ad litem* for the absent parent is required by § 107.013, Texas Family Code.

19.3.2. If the Court finds that the parent is a minor, the Department requests that the Court appoint an attorney *ad litem* to represent the interests of the minor parent pursuant to § 107.010, Texas Family Code.

19.4. Payment of Fees for Attorneys Ad Litem

The Department requests that attorney's fees for any attorney *ad litem* be assessed and paid in accordance with § 107.015, Texas Family Code.


20. Statutory Warning to Parents

The Department requests that the Court inform each parent in open court as required by §§ 262.201(c) and 263.006, Texas Family Code, at the adversary hearing, at the status hearing, and at each subsequent permanency hearing that parental and custodial rights and duties may be subject to restriction or to termination unless the parent or parents are willing and able to provide the child with a safe environment.

21. Prayer

- 21.1. The Department prays that citation and notice issue as required by law, and that the Court enter temporary and final orders in accordance with the allegations of this petition.
- 21.2. The Department prays that the Court immediately grant emergency orders in conformity with the allegations of this petition.
- 21.3. The Department prays for attorney's fees, expenses, and costs.
- 21.4. The Department prays for general relief.

Respectfully Submitted,



CLAY WATKINS
Attorney for Petitioner,
Department of Family and Protective Services
100 W. Mulberry St.
Kaufman, Texas 75142

APPENDIX 2

CAUSE NO. 102717-CC

IN THE INTEREST OF

§

IN THE COUNTY COURT

§

K.P.

§

CHILDREN

§

KAUFMAN COUNTY, TEXAS

AFFIDAVIT IN SUPPORT OF REMOVAL

STATE OF TEXAS

BEFORE ME, the undersigned authority, personally appeared **Tabatha Sims** who was sworn by me and deposed as follows:

“My name is **Tabatha Sims**. I am over the age of 18, of sound mind and capable of making this affidavit. I am an authorized representative of the Texas Department of Family and Protective Services, and the facts stated in this affidavit and the above petition is within my personal knowledge and is true and correct.

“To the best of my knowledge, the Department of Family and Protective Services:

“Has not participated in any capacity in any other litigation concerning the custody of the child in this or any other state;

“Does not have information of any proceeding concerning the child pending in a court of this or any other state;

“Does not know of any person not a party to the proceedings who has physical custody of the child or who claims to have custody or visitation rights with respect to the child.

1. CHILD(REN)

Name: K.P.

DOB:

Current address: 1

Name: L.P.

DOB:

Current address:

Name: J.P.

DOB:

Current address:

2. PARENTS/MEMBERS OF THE HOUSEHOLD

Mother

Name: Ashley Pardo

DOB: [REDACTED]

Current address: [REDACTED]

Allege Father-

Name: Daniel Pardo

DOB: [REDACTED]

Current address: [REDACTED]

3. ALLEGATIONS

On June 6, 2019 The Department of Protective Services received a referral alleging the physical abuse of [REDACTED] K.P. [REDACTED] by Ashley Pardo. The report alleges [REDACTED] K.P. [REDACTED] had brain surgery when he was younger (January 2018) to address complications with Arnold-Chiari Syndrome. This surgery was a success. Ashley Pardo continues to claim that [REDACTED] K.P. [REDACTED] is having issues related to Arnold-Chiari Syndrome.

Ashley is displaying behaviors associated with Munchausen syndrome by proxy. Ashley has multiple physicians and switches doctors when they do not agree with her assessment. Ashley is exaggerating and lying about [REDACTED] K.P. [REDACTED]'s symptoms and condition.

Ashley is demanding an unnecessary surgical procedure to place a G-tube in [REDACTED] K.P. [REDACTED]. Ashley has been to two GI doctors who have advised that [REDACTED] K.P. [REDACTED] does not need a G-tube, and MO is looking for a third GI doctor. [REDACTED] K.P. [REDACTED] does not appear to qualify for this procedure. [REDACTED] K.P. [REDACTED]'s weight has been above the 75% and he has never experienced weight loss. [REDACTED] K.P. [REDACTED] has always taking feedings by mouth well, but Ashley is now saying he only takes food through the tube. Ashley convinced a doctor to put in a NG tube in [REDACTED] K.P. [REDACTED] that goes from his nostril to his stomach; this was not a surgical procedure.

[REDACTED] K.P. [REDACTED] has had some behavioral differences and changes. Ashley has a CP doctor and, for unknown reasons, this doctor gave Ashley a wheelchair for [REDACTED] K.P. [REDACTED] even though [REDACTED] K.P. [REDACTED] can walk and play normally. Ashley constantly wheels [REDACTED] K.P. [REDACTED] around in the wheelchair.

[REDACTED] K.P. [REDACTED] was given Trileptal for his behaviors when he was younger. Ashley began telling everyone that [REDACTED] K.P. [REDACTED] had epilepsy, even though the neurologist disagreed with this and [REDACTED] K.P. [REDACTED] was never documented as having seizure activity, even with 150 hours of observations. Finally, Ashley was convinced [REDACTED] K.P. [REDACTED] did not have epilepsy. Now, Ashley is saying [REDACTED] K.P. [REDACTED] has sleep apnea.

There are growing concerns regarding this situation now that Ashley is demanding surgical procedures on [K.P.] that are not necessary.

Daniel Pardo appears reasonable, but he works all the time and is rarely around. Daniel Pardo works as a tech at an aircraft repair company.

I, Tabatha Sims, have investigated the following:

On June 7, 2019 I made an unannounced home visit to [REDACTED]. I knocked on the door several times and no one answered. I left my business card on the door.

I placed a phone call to Dr. Dakil and she explained the medical team has had significant concerns with [K.P.] for the last 3-4 months. Dr. Dakil a child abuse pediatric specialist with Children's Medical Center of Dallas in the REACH clinic. She was contacted in April and was asked to review the child's medical records. In 2018 the child had developmental delays and a brain malformation and surgery. The following is a generalization and summary of her concerns: (see attached affidavit from Dr. Dakil)

Dr. Dakil stated that the mother Ashley Pardo is worried that the child is still having issues from the brain malformation. Mother is claiming the child has seizures and the child has had EEG's in and out of the hospital with no findings of such. The mother is still convinced the child is having seizures. Mother is convinced the child is Autistic and there has been no diagnosis. Mother has taken the child to a cerebral palsy doctor where that doctor gave mom a wheel chair for the child. The child walks and plays while in the hospital and does not appear to need a wheel chair. Mother is convinced the child needs a G Tube. Child's weight has been above the 75th percentile and he has never experienced weight loss. Child has always taking feedings by mouth well, but mother is now saying he only takes food through the tube. Mother is convinced a doctor to put in a NG tube in child that goes from his nostril to his stomach. Mother reports the feedings are getting worse. Mother met with a surgeon yesterday and the surgeon refused to put in a feeding tube. The surgeon tried talking to mom but mom is searching for a new GI doctor until she can get a GI tube for the child. Medical City of Dallas hospital is seeing the child for Nero Surgery. Mother reads the medical record every day. The child was last seen by Dr. Deeson the surgeon. This surgeon told mom he wants the child in feeding therapy before putting in a G Tube. The GI doctor offered inpatient for the child for the therapy to get started. Mom reports she "lives in the boonies" and does not have access to speech therapy. She advised she wanted the child to be admitted to the hospital on Monday so the hospital could start [K.P.] on feeding treatments.

I received a telephone call from Ashley Pardo and we scheduled to meet Monday June 10, 2019 at 9:00 am at her residence.

On June 10, 2019 I received an email from Krista McIntire stating that she is a family rights advocate and she will be a witness for Ashley Pardo and CPS.

I received a text from Ashley Pardo saying she and her husband could meet me on June 18, 2019 at 10:00am.

On June 11, 2019 I received an email from an attorney Chris Branson stating he represented the Pardo family and he cancelled the meeting with the family on June 18, 2019 and denied any further communication I could have with the family.

On June 18, 2019 I received a telephone call from Dr. Dakil. She was concerned that the child was not admitted to the hospital and I explained to her the family was not cooperating and I have not been able to see the child. She said she will provide the Department with an affidavit explain all the medical concerns regarding [REDACTED] K.P. [REDACTED]

On June 19, 2019 I received affidavit from Dr. Dakil listing her concerns for medical child abuse. (Please See Attached for Full Affidavit)

4. CPS HISTORY

Department and family and protective services history check was conducted on the family. The family appears to have previous CPS History:

12/25/2009

Allegations:

Anderson County Sheriff's Office report #0913439.

On 12-24-09 at about 11:59 PM, Anderson County Sheriff's deputies were dispatched to a domestic disturbance call. Ashley Pardo and Chad Patrick Gannon had gotten into a physical altercation over Christmas and possibly finances. Ashley Pardo just lost her job two weeks ago and moved into the current residence a week ago. Chad Patrick Gannon started calling Ashley Pardo names and then threw her on the bed, punched her pregnant stomach and grabbed her by the neck. Ashley Pardo picked up the phone and apparently hit redial and called the Maternal Grandmother. Ashley Pardo noticed the phone was on and began to scream. Maternal Grandmother could hear the Ashley Pardo screaming and called Law enforcement. Chad Patrick Gannon answered the door when Law enforcement arrived. Law enforcement went into the home and Ashley Pardo stated the Chad Patrick Gannon assaulted her. Chad Patrick Gannon was arrested for violation of a 2 year Protective Order. Ashley Pardo had protective order against the Chad Patrick Gannon on August 12, 2009. Ashley Pardo stated Chad Patrick Gannon has a history of assaulting her numerous times. Ashley Pardo stated that after the protective order was placed on the Chad Patrick Gannon they started off talking on the phone in September, then Ashley Pardo allowed the Chad Patrick Gannon moved back in approximately a month ago. Ashley Pardo stated [REDACTED] J.P. [REDACTED] was asleep in his room during the altercation. [REDACTED] J.P. [REDACTED] was not injured or harmed. Chad Patrick Gannon has no known special needs or disabilities. Ashley Pardo stated that Chad Patrick Gannon has mental problems and has medication for his condition. Ashley Pardo stated she counted his pills and Law enforcement has not been taking his medication. Reporter did not know what he was diagnosed with. Chad Patrick Gannon is not receiving any form of disability. Ashley Pardo stated she has two heart conditions and in high risk pregnancy. Ashley Pardo is not receive any form of disability for her conditions according to Reporter. Ashley Pardo did state she was pregnant with twins in the past and lost them, but REPT does not know how they died. Ashley Pardo was apologetic at first for the Chad

Patrick Gannon assaulting her. Law enforcement advised that having Chad Patrick Gannon in the home was not a safe thing to do, especially with having a protective order. Reporter did not know if Ashley Pardo would allow Chad Patrick Gannon back in the home after his release from jail. Reporter believes that chances are Ashley Pardo will allow Chad Patrick Gannon back in the home as she has in the past. Reporter did not know how long Chad Patrick Gannon would be in jail, but thinks it would be a couple of days.

Disposition: Unable to Determine for the Neglectful Supervision of [J.P.] by Chad Patrick Gannon and Ashley Pardo

06/02/2010

Allegations:

On 8/12/2009 Chad Patrick Gannon was arrested for assaulting Ashley Pardo. Ashley Pardo received an Emergency Protective order against Chad Patrick Gannon that covered Ashley Pardo and [J.P.]. The Emergency Protective Order does not expire until 8/12/2010. On 12/25/2009 Chad Patrick Gannon was arrested for violating a protective order and a new charge assault on a family member. Chad Patrick Gannon was living with Ashley Pardo. FA slammed Ashley Pardo's head into a wall and hit her in the stomach. Ashley Pardo was pregnant at the time. Ashley Pardo was taken to the local emergency room, where it was determined that Ashley Pardo's unborn child was ok. It is unknown if Ashley Pardo is currently pregnant or if there is another child in the home. Ashley Pardo has marks and bruises on her legs, arms, and upper chest above her breast. Ashley Pardo also had a red face where it looked like FA either hit or slapped Ashley Pardo. It is unknown where [J.P.] was at the time. The Sheriff's Office has received calls that FA is currently back in the home with Ashley Pardo and [J.P.]. The Sheriff's Office has been out to Ashley Pardo residence. Chad Patrick Gannon's truck is broke down in the driveway. There are tools spread out everywhere like someone is working on the truck. Ashley Pardo will not admit or deny that Chad Patrick Gannon is living there. Ashley Pardo will not allow anyone in her home without a search warrant. There is not enough evidence to obtain a search warrant. Ashley Pardo stated that she is trying to get the Protective Order dropped.

Disposition: Rule out for the Neglectful Supervision and Physical Abuse of [J.P.] by Chad Patrick Gannon and Ashley Pardo

05/23/2014

Allegations:

[J.P.] lives with [L.P.], Ashley Pardo and Daniel Pardo. Chad Patrick Gannon's parental rights may have been terminated. It is not known if anyone in the house has any special needs. Ashley Pardo has divorced Chad Patrick Gannon. Ashley Pardo has remarried and Daniel Pardo (may have legally adopted [J.P.] and [L.P.]). Ashley Pardo has obtained a protective order against Chad Patrick Gannon and stated that Chad Patrick Gannon's parental rights have been terminated. Ashley Pardo has repeatedly called law enforcement stating that Chad Patrick Gannon is following Ashley Pardo. When stopped by law enforcement, Chad Patrick Gannon stated "I just showed up and she was here" in response to why Chad Patrick Gannon is around Ashley Pardo. Law enforcement is aware that Chad Patrick Gannon is violating the protective order. Ashley Pardo is doing what Ashley Pardo can do to be protective of [J.P.] and [L.P.]. Chad Patrick Gannon has told others and Ashley Pardo that Chad Patrick Gannon will kill [J.P.] and [L.P.] because it was "the best way to hurt

her and take what she loves the most." Chad Patrick Gannon has not stated how Chad Patrick Gannon will kill [J.P.] and [L.P.] Ashley Pardo is putting together a list of common friends that both Ashley Pardo and FA knew that have been told that Chad Patrick Gannon is going to kill [J.P.] and [L.P.] Tonight, Ashley Pardo, Daniel Pardo, Jared Pardo and [L.P.] were at McDonald's eating when Chad Patrick Gannon saw them. Chad Patrick Gannon drove by McDonald's three times then parked. Chad Patrick Gannon walked back and forth in front of McDonald's looking at Ashley Pardo, Daniel Pardo, [J.P.] [J.P.] and [L.P.] It is believed that Chad Patrick Gannon was trying to intimidate Ashley Pardo. FA didn't approach Ashley Pardo. Chad Patrick Gannon has also been seen driving by Jared Pardo's school. No one in the home is associated with gangs. It is not known if there are any weapons in the home. Chad Patrick Gannon has a history of family violence with the last being in 2009. Chad Patrick Gannon also has a record of an assault with bodily injury. Ashley Pardo said Daniel Pardo struck Ashley Pardo while Ashley Pardo was pregnant with [L.P.] [L.P.] There is no known drug or alcohol abuse.

Disposition: Administratively Closed

5. CRIMINAL HISTORY

The parents appear to have the following criminal history:

Daniel Pardo:

8/27/2008 CRIMINAL TRESPASS

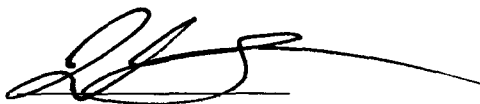
Ashley Pardo:

9/3/2012 THEFT PROP

6. CONCLUSION


Based on the above facts, the Department is requesting to be named the temporary managing conservator of [K.P.]. The Reach clinic has provided its findings as highly concerning for medical child physical abuse. Dr. Dakil has significant concerns about the accuracy of some of Kaleb's diagnoses. The child with no weight loss and only very recent concerns about feeding intolerance, Dr. Dakil feels that he needs additional work up before undergoing a surgical procedure. The Reach clinic recommends that [K.P.] be admitted for a feeding evaluation. Due to concerns mother, Ashley Pardo, the Reach clinic recommends she not be present or have limited presence during the admission. The Department has attempted to identify safe family members or fictive kin with whom the child could be placed as opposed to placement in foster care, however, no such individuals could be identified. Reasonable efforts have been made to prevent or eliminate the need for removal of these children from Mrs. Pardo's home, and allowing [K.P.] to remain in the home would be contrary to their welfare.

Furthermore, based on the lack of cooperation from the parents and the attorney and family advocate who represents the family, the Department would ask the court to grant a Writ of Attachment so as to ensure that the child can be safely transported to Children's Medical Center of Dallas without the presence of the parents as requested by the doctor.

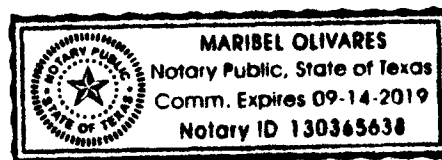


Tabatha Sims
CPS INVESTIGATOR IV

SIGNED under oath before me on the 20th day of June, 2019.


Notary Public in and for the State of Texas

My commission expires 9-14-19





UT Southwestern Medical Center

Patient: [REDACTED] K.P.
MRN#: [REDACTED]
Date of Birth: [REDACTED]
Date of affidavit: June 18, 2019
Consulting Physician: Suzanne Dakil, MD

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My name is Suzanne Dakil, M.D. and I am an Assistant Professor of Pediatrics in the Department of Pediatrics at the University of Texas Southwestern Medical School. I am a board-certified Child Abuse Pediatrician and the Medical Director of the REACH (Child maltreatment) Program at the Children's Health Children's Medical Center Dallas (CMCD). As part of our program, I provide telephone consultation to the providers at Medical City Children's Hospital.

[REDACTED] K.P. is a 4-year-old male that has been receiving care at CMC and affiliated clinics since infancy. I was asked to do an objective chart review in April 2019 after a care provider [Physician] had concerns regarding mother's care of this patient. I have spent time reviewing the medical records for this child that are available at CMCD. I have spoken with several of his care providers. I do not have access to this child's records from the cerebral palsy doctor.

[REDACTED] K.P. started seeing our gastroenterology [GI doctors] in May of 2015. At that time, he was diagnosed with reflux and possible milk protein allergy by Dr. Andersen. He was started on a special formula and reflux medications. He has continued to see GI since. He has remained on special formulas as mother states that he refuses to eat other foods.

[REDACTED] K.P. was sent to ENT in October of 2015 for poor feeding and latch. He had a frenulectomy done (minor procedure to release a tight band under the tongue).

In November of 2016, mother asked for evaluation for autism based on an acutism screening for that was completed. It is not clear who completed this form. Initially, the primary care doctor sent [REDACTED] K.P. for therapy. She was seen by the Neurodevelopmental clinic in July of 2017. At that time, a full autism evaluation was recommended in order to complete determine the diagnosis but he was started on Trileptal for behavior modification in the interim.

In August of 2017, she was seen by genetics and had several genetic tests done. He was tested for fragile X syndrome and that test was normal. He had a chromosomal microarray test performed that showed some minor variants. These variants can be associated with structural heart defects that are evident in infancy. When mother was provided with the genetics information, she was surprised that the results were normal and called the clinic again later to be reassured again that the results were normal.

In August of 2017, [REDACTED] K.P. had an MRI done for further evaluation of his developmental concerns. Tis was ordered by the neurologist from the Neurodevelopmental clinic. The MRI showed a form of Arnold Chiari malformation. At the time, the neurologist did not think that this was causing his symptoms. She did not initially refer the patient to neurosurgery. Around this time, however, mother also started sharing concerns that [REDACTED] K.P. was having seizures, specifically absence seizures. Absence seizures cause a child to stare into space for small periods (10-20 seconds) and then return to normal. An electroencephalogram [EEG] was done and was normal. The neurologist increased his Trileptal dose. This medication was started for behavior modification but is

Patient: K.P.
MRN#: [REDACTED]

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Date of affidavit: June 18, 2019

Consulting Physician: Suzanne Dakil, MD

traditionally an anti-seizure medication. Mother also remained concerned about the MRI so was referred to neurosurgery.

K.P. was seen by neurosurgery in October of 2017. The surgeon requested additional imaging of the spine, a sleep study based on mother reports of poor sleep, and a cardiac evaluation based on mother's report of the genetic abnormalities.

In November 2017, he had a cardiac evaluation that was normal for structural defects. He also had a sleep study that showed sleep apnea (both obstructive and central).

In December 2017, a swallow study was done that showed slow movement of the liquid in his mouth. A thickener was recommended to make the liquids easier to manipulate in his mouth. It was also recommended that he have speech therapy. Around this time, K.P. had follow-up in GI clinic. At that time, mother reported that K.P. has epilepsy despite not being diagnosed to have epilepsy by a neurologist.

In January 2018, mother developed concerns about Ehler-Danlos syndrome. This is a connective tissue disorder associated with hypermobility of joints and has many types. Per medical records, mom has described to many physicians that K.P. might have this syndrome and he is hypermobile. She also called the GI clinic and asked for more thickener because she was making his formula more thick than was suggested by the speech therapist. She also called neurodevelopmental team and had said that K.P. was having a new seizure type that resulted in him being post-ictal (an excessively sleepy state after a seizure).

In February 2018, he had an inpatient EEG that lasted for 24 hours. The EEG was normal. Mother was not reassured by this and asked to be seen in the epilepsy clinic.

In March, K.P. had a decompression surgery to fix the Chiari malformation. After the surgery, mother was concerned that his wound was infected and that his behaviors were worse. He was prescribed antibiotics and pain medications. In his follow-up appointments, the surgeons felt that his wound looked good and that he was recovering well.

In April 2018, K.P. was seen by the allergy and immunology physicians because mother was concerned about his immune function and peeling skin on his hands. He was also seen by epilepsy clinic who suggested weaning off the Trileptal as it was not indicated. Since this medication was started for behavior concerns that might have improved with the surgery, the doctor wanted to wean. Initially, mother was hesitant but she subsequently did agree.

It seems that around this time, K.P. started seeing a cerebral palsy doctor. I do not have those records but mother mentions this new doctor and the treatments that she is prescribing.

Patient: [REDACTED] K.P.
MRN#: [REDACTED]
Date of Birth: [REDACTED]
Date of affidavit: June 18, 2019
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In June 2018, mother was concerned that he couldn't control his body temperature. She does report improved appetite now that he is off the Trileptal.

In July 2018, he has his follow-up sleep study. Both is central and obstructive sleep apnea has resolved after the surgery.

In August 2018, mother reports a possible atonic seizure (a new seizure type). The CP doctor feels this may be dysautonomia (a dysregulation of the body systems that regulate breathing, heart rate, and blood pressure). She prescribed home blood pressure and oxygen monitoring. She also prescribed clonazepam as a behavior modifying drug. He had an additional 4-hour EEG to look for seizure that was again normal.

In September 2018, he was seen by neurodevelopmental clinic (NDD) as mother reports that he is becoming more and more aggressive. Different drug options were discussed for behavior modification that are less addictive and safer. Mother reported that the CP doctor didn't want [REDACTED] K.P. on those medication as it can worsen dysautonomia. The NDD clinic asked that mother see the CP doctor for her behavior management at this time since she was not in agreement with the current medication plan.

In September, mother emailed cardiology with concerns for atonic seizures with changes to blood pressure and oxygen levels. Dr. Scott ordered a home heart monitor to be done for 24 hours. [REDACTED] K.P. had follow-up at the sleep clinic. At that time, mother was still concerned about sleep apnea so another sleep study was ordered. His heart monitor showed some lower heart rates overnight. Mother was very worried about this combined with her concerns about sleep apnea.

In October, he was admitted for another sleep study that was again normal. Despite being told that the study was normal, mother emailed the clinic soon after asking about a specific event overnight. She was again reassured that the moment of awakening was not associated with any vital sign or EEG changes and was just a cough. He was diagnosed with restless leg syndrome (a diagnosis that is based on subjective assessment) and started on another medication for that. Mother remained concerned about his autonomic dysfunction so cardiology ordered a 30-day monitor of his heart. Despite many of the concerning events happening while [REDACTED] K.P. was wearing the monitor, there were no abnormalities seen on the heart activity.

At some point in the fall of 2018, [REDACTED] K.P. was provided a wheelchair by his CP doctor. This is reportedly given because he tires easily.

In January 2019, [REDACTED] K.P. was telling mother that milk tasted funny. After some discussion, he was changed from EleCare Junior to Neocate Splash.

Patient: [REDACTED] K.P.
MRN#: [REDACTED]
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In February 2019, mother emailed with GI regarding his feeding. She reported that he was having trouble drinking from a sippy cup and that he was refusing all solids. She said he had another swallow study that was normal except for some reflux. In March, GI set up a virtual visit with nutrition. By April, mother was stating that [REDACTED] K.P. was not consuming much of anything and she was very worried. At that point, mother started asking about a g-tube.

In April 2019, Dr. Andersen (Kaleb's GI doctor since infancy) laid out a plan to evaluate Kaleb's new feeding issues. This was a stepwise approach to look at the esophagus and stomach first. Mother was upset and again requested to have the G-tub placed. After that visit, mother called and reported that [REDACTED] K.P. has been diagnosed with aspiration pneumonia by his pediatrician. It was suggested that she return to CMCD. Mother returned to the hospital and [REDACTED] K.P. was admitted.

During his admission in April, he was diagnosed with RSV (viral lung infection) not aspiration pneumonia. Mother was still adamant about getting a G-tube. She fired Dr. Andersen and asked to be seen by a different GI doctor. While in the hospital, when directed to eat or drink by staff, [REDACTED] K.P. did so without problem. In addition, when working with therapists, he seemed fine moving about with his braces for his leg. The wheelchair was not needed in fact the medical records describe that he was running around in the room prior to his discharge. When the inpatient team approached the family about concerns that mother was potentially exaggerating his symptoms, she was upset and asked to leave. Inpatient feeding therapy program was suggested to evaluate mothers concerns specifically related to feeding and her request for a g-tube (a surgical procedure that would require him to get anesthesia) but the family declined due to distance from the home and responsibility to care for other children as dad works long hours. Out-patient feeding program was also discussed as an option but the family declined. Mother did mention to the medical team that he eats better when his father feeds him.

[REDACTED] K.P. was set up with another GI doctor in May. He was readmitted and a nasogastric tube was placed for feeding. He was discharged with the intent that the tube would be used only after he ate by mouth. Mother now reports that the child will not take anything by mouth. It was again suggested that the child be admitted for evaluation, but mother declined. She told her new GI doctor that she needs the G-tube.

Medical Findings

1. [REDACTED] K.P. is currently a 4-year-old boy. He was born without any complication and full-term.
2. [REDACTED] K.P. had some common problems as an infant including milk-protein allergy and reflux. Both of these issues often resolve with time, but they continue to be a reported problem for [REDACTED] K.P. despite good weight gain.
3. [REDACTED] K.P. did have Chiari malformation but underwent a definitive surgery in 2018 with resolution of symptoms.
4. Kaleb's mother has expressed concern for multiple problems over the years

Patient: [REDACTED] K.P.

MRN#: [REDACTED]

Date of Birth: [REDACTED]

Date of affidavit: June 18, 2019

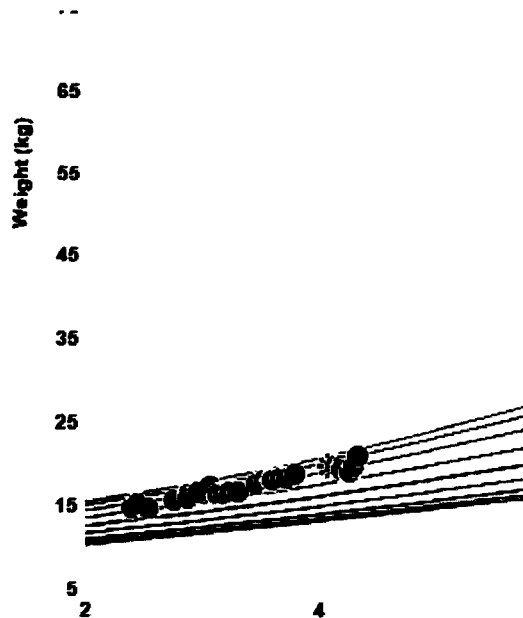
Consulting Physician: Suzanne Dakil, MD

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- a. epilepsy (seizures)- for this concern, he has had numerous hours of monitoring and tests that have all been normal
 - b. sleep apnea- this was a problem prior to surgery but has since resolved based on sleep study results since.
 - c. Immunodeficiency and fevers—mom reported temperature problems, immunologist was seen and all tests were normal.
 - d. autism/ behavioral problems/ cerebral palsy- from my review, there is no clear testing for autism despite mother still reporting it as a diagnosis. He does have some behavioral issues that have been monitored. He is seeing a cerebral palsy doctor- but I don't know where that diagnosis was made.
 - e. dysautonomia- he has had numerous heart and sleep tests that do not reveal any problems with autonomic regulation
 - f. developmental delays- while in the hospital in April, he was seen by all the different therapist. He has no gross motor concerns for age- able to walk and jump easily. He has no fine motor concerns- able to put on socks. He seemed to know colors and numbers putting him on track cognitively. He does have some speech delay that would require speech therapy.
5. The biggest concern at this time is his feeding. It seems that he has suddenly developed an inability to eat. This doesn't appear to be related to a medical cause. He was able to eat in the hospital in April and has maintained adequate weight since then. He has never lost weight or even been of low weight. Mother wants a surgical tube for feeding at this time without an understanding of why this would be necessary. This is his growth curve. He has never been diagnosed with weight loss or failure to thrive. He has never been dehydrated. A g-tube is a surgical procedure that would require overnight fasting, an anesthetic, post-operative care. G-tubes are typically reserved for children that are low weight, losing weight, or have a mechanical reason for not being able to eat.

Patient: [REDACTED] K.P.
MRN#: [REDACTED]
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Medical Assessment

K.P. is a 4yo male that is currently being seen by multiple doctors and multiple clinics in the Dallas area. With much review, I have significant concerns about the accuracy of some of his diagnoses. I am very worried about medical child abuse for this child. For this child with no weight loss and only very recent concerns about feeding intolerance, I feel that he needs additional work-up before undergoing a surgical procedure. It is the recommendation of the GI team at CMCD that this child be admitted for feeding evaluation. Due to our concerns with mother, it is recommended that she not be present (or with limited presence) during this admission. We believe this is the only way to get a good understanding of his needs before any surgery takes place.




UT Southwestern
Medical Center

Patient: [REDACTED] K.P.
MRN#: [REDACTED]
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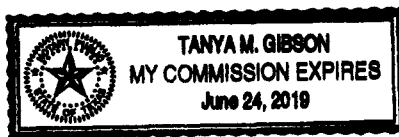
A Notary Public in and for said county, State of Texas, on this day personally appeared Suzanne Dakil, M.D., Pediatrician working at Children's Medical Center Dallas, faculty member of the University of Texas Southwestern Medical School, who, after being by me duly sworn, on oath deposes and says: The above statement is my medical assessment.

I HAVE PERSONAL KNOWLEDGE OF THE ABOVE AND I SWEAR IT IS TRUE AND CORRECT.


AFFIANT

SUBSCRIBED AND SWORN BEFORE ME THIS 18th DAY OF June AD 2019.


NOTARY PUBLIC in and for Texas



APPENDIX 3

**NOTICE: THIS DOCUMENT
CONTAINS SENSITIVE DATA**

CAUSE NO. 102717-CC

IN THE INTEREST OF

K.P.

A CHILD

§
§
§
§
§

IN COUNTY COURT

AT LAW

KAUFMAN COUNTY, TEXAS

TEMPORARY ORDER FOLLOWING ADVERSARY HEARING

On **July 2, 2019**, a full Adversary Hearing pursuant to § 262.201, Texas Family Code, was held in this cause.

1. Appearances

- 1.1. The Department of Family and Protective Services (“the Department”) appeared through **TABATHA SIMS**, caseworker, and by attorneys, **CLAY WATKINS and LESLIE ODOM** and announced ready.
- 1.2. Respondent Mother, **ASHLEY PARDO** appeared in person and through attorneys of record **CHRIS BRANSON and JULIE JACOBSON** and announced ready.
- 1.3. Respondent Father, **DANIEL PARDO**, appeared in person and through attorneys of record **CHRIS BRANSON and JULIE JACOBSON** and announced ready.
- 1.4. **LONE STAR CASA**, appointed by the Court as Guardian Ad Litem of the child the subject of this suit, appeared and announced ready.
- 1.5. **COURTNEY WORTHAM**, appointed by the Court as Attorney Ad Litem of the child the subject of this suit, appeared and announced ready.

2. Jurisdiction

- 2.1. The Court, after examining the record and hearing the evidence and argument of counsel, finds that all necessary prerequisites of the law have been satisfied and that this Court has jurisdiction of this case and of all the parties.
- 2.2. The Court further finds that the State of Texas has jurisdiction of this case pursuant to Subchapter C, Chapter 152, Texas Family Code, because Texas was the home state of the child on the date of the commencement of this proceeding, and there is no prior child custody determination in another state.

3. Indian Child Welfare Act

The Court has inquired whether the child's family has Native American heritage and has not yet identified any Native American Tribe with which the child may be associated. Further inquiry shall be made.

4. Findings

4.1. Having examined and reviewed the Department's pleadings and the sworn affidavit accompanying the petition and based upon the facts contained therein and the evidence presented to this Court at the hearing conducted on this date, the Court finds there is sufficient evidence to satisfy a person of ordinary prudence and caution that: (1) there was a danger to the physical health or safety of the child which was caused by an act or failure to act of the person entitled to possession. The Court further finds that it is contrary to the welfare of the child, [REDACTED] K.P. [REDACTED] to remain in the home of **ASHLEY PARDO** or of **DANIEL PARDO**, and; (2) the urgent need for protection required the immediate removal of **KALEB PARDO** and reasonable efforts consistent with the circumstances and providing for the safety of [REDACTED] K.P. [REDACTED], were made to eliminate or prevent the removal of [REDACTED] K.P. [REDACTED]; and (3) reasonable efforts have been made to enable [REDACTED] K.P. [REDACTED] to return to the home of **ASHLEY PARDO** or of **DANIEL PARDO**, but there is a substantial risk of a continuing danger if [REDACTED] K.P. [REDACTED] is returned to the home of **ASHLEY PARDO** or of **DANIEL PARDO**. Further, the Court does make a finding of family violence as defined by Texas Family Code Section 71.004.

4.2. Findings for Appointment of Managing and Possessory Conservator

4.2.1. The Court finds that appointment of the parent or parents as managing conservator of the child is not in the best interest of the child because the appointment would significantly impair the child's physical health or emotional development.

4.2.2. The Court finds that it is in the best interest of child to limit the rights and duties of **ASHLEY PARDO** appointed as possessory conservator.

4.2.3. The Court finds that it is in the best interest of child to limit the rights and duties of **DANIEL PARDO** appointed as possessory conservator.

4.3. If the child has not been placed with a relative or other designated caregiver, the Court finds that the Department has provided the reasons for not placing the child and the actions, if any, to be taken to place the child.

4.4. The Court finds that the following orders for the safety and welfare of the child are in the best interest of the child.

5. Conservatorship

- 5.1. **IT IS ORDERED** that the Department of Family and Protective Services is appointed Temporary Managing Conservator of the following child:

Name: **K.P.**
Sex: **Male**
Birthplace: **Unknown**
Birth Date: **[REDACTED]**
Indian Child Status: **Unconfirmed**

- 5.2. In accordance with § 262.116, Texas Family Code, the Court finds that the Department of Family and Protective Services did not take possession of the child under this subchapter based on evidence that the Parent:

- 5.2.1. homeschooled the child;
- 5.2.2. is economically disadvantaged;
- 5.2.3. has been charged with a nonviolent misdemeanor other than:
 - 5.2.3.1. an offense under Title 5, Penal Code;
 - 5.2.3.2. an offense under Title 6, Penal Code; or
 - 5.2.3.3. an offense that involves family violence, as defined by Section 71.004 of this code;
- 5.2.4. provided or administered low-THC cannabis to a child for whom the low-THC cannabis was prescribed under Chapter 169, Occupations Code; or
- 5.2.5. declined immunization for the child for reasons of conscience, including a religious belief.

- 5.3. **IT IS ORDERED** that the Temporary Managing Conservator shall have all the rights and duties set forth in § 153.371, Texas Family Code.

- 5.3.1. **IT IS ORDERED** that, in addition to the rights and duties listed in § 153.371, Texas Family Code, the Department is authorized to consent to medical care for the subject child, pursuant to § 266.004, Texas Family Code.

- 5.4. **IT IS THEREFORE ORDERED** that **ASHLEY PARDO** is appointed Temporary Possessory Conservator of the child, **K.P.**, with the limited rights and duties set forth in **Attachment A**.

- 5.5. **IT IS THEREFORE ORDERED** that **DANIEL PARDO** is appointed Temporary Possessory Conservator of the child, **K.P. [REDACTED]**, with the limited rights and duties set forth in **Attachment A**.

6. Possession and Access

- 6.1. The Court finds that the application of the guidelines for possession of and access to the child, as set out in Subchapter F, Chapter 153, Texas Family Code, is not in the child's best interest. **IT IS ORDERED** that **ASHLEY PARDO** shall have limited access to and possession of the child as set forth in **Attachment A**, which includes orders relating to the Temporary Visitation Schedule.
- 6.2. The Court finds that the application of the guidelines for possession of and access to the child, as set out in Subchapter F, Chapter 153, Texas Family Code, is not in the child's best interest. **IT IS ORDERED** that **DANIEL PARDO** shall have limited access to and possession of the child as set forth in **Attachment A**, which includes orders relating to the Temporary Visitation Schedule.

7. Required Home Study/ Social Study

- 7.1. The Court finds that Respondent Mother, **ASHLEY PARDO**, has submitted the Child Placement Resources Form required under § 261.307, Texas Family Code.
- 7.2. The Court finds that Respondent Father, **DANIEL PARDO**, has submitted the Child Placement Resources Form required under § 261.307, Texas Family Code.
- 7.3. The Court finds that **K.P. [REDACTED]** is not currently placed with a relative or other designated caregiver. The Court finds that the Department does not have the option of placing the child with a relative of other designated caregiver at this time.
- 7.4. **IT IS ORDERED** that each Parent, Alleged Father or Relative of the subject child before the Court complete the Child Placement Resources Form provided under § 261.307, and file the completed Form with the Court if the form has not previously filed. **IT IS FURTHER ORDERED** that each Parent, Alleged Father or Relative provide the Department with a copy of the completed Form and the full name and current address or whereabouts and phone number of any absent parent, alleged father or relative of the subject child, pursuant to § 262.201, Texas Family Code.

8. Finding and Notice

THE COURT FINDS AND HEREBY NOTIFIES THE PARENTS THAT EACH OF THE ACTIONS REQUIRED OF THEM BELOW ARE NECESSARY TO OBTAIN THE RETURN OF THE CHILD, AND FAILURE TO FULLY COMPLY WITH THESE ORDERS MAY RESULT IN THE RESTRICTION OR TERMINATION OF PARENTAL RIGHTS.

9. Psychological or Psychiatric Evaluation:

- 9.1. **IT IS FURTHER ORDERED** that **ASHLEY PARDO** and **DANIEL PARDO** shall appear at a date and time to be determined by a service provider selected by the Department and shall submit to and cooperate fully in the preparation of this court-ordered psychological or psychiatric evaluation. Respondent is hereby notified that any communications made with a counselor, therapist, psychiatrist, or psychologist are not confidential.

10. Compliance with Service Plan

- 10.1. **ASHLEY PARDO** and **DANIEL PARDO** are **ORDERED**, pursuant to § 263.106 Texas Family Code, to comply with each requirement set out in the Department's original, or any amended, service plan during the pendency of this suit.

- 10.2. **IT IS FURTHER ORDERED** that:

10.2.1. **ASHLEY PARDO** and **DANIEL PARDO** shall participate and follow medical treatment plans for **K.P. [REDACTED]** as recommended by Children's Medical Center.

10.2.2. **ASHLEY PARDO** and **DANIEL PARDO** shall provide the Department with a social history and any other information the Department requires.

10.2.3. **ASHLEY PARDO** and **DANIEL PARDO** shall provide any other information to the Department or Children's Medical Center that may be needed for treatment and care for **K.P. [REDACTED]**.

10.2.4. **ASHLEY PARDO** and **DANIEL PARDO** shall sign a release of information pertaining to all medical records of **K.P. [REDACTED]** to the Department and provide the Department with a list of the names and addresses of the physicians who have treated **K.P. [REDACTED]**.

10.2.5. If there is a new diagnosis, **ASHLEY PARDO** and **DANIEL PARDO** will follow treatment plan recommended by Children's Medical Center.

- 10.3. The court finds that this order, as supplemented by the service plan to be approved at the Status Hearing under Texas Family Code §263.201, sufficiently defines the rights and duties of the parents of the child pursuant to Texas Family Code § 153.602 and satisfies the requirements of a parenting plan. To the extent there is evidence demonstrating that the child has been exposed to harmful parental conflict, the court orders that the Department address this issue in the Family Plan of Service.

11. Additional Orders

- 11.1. **ASHLEY PARDO** and **DANIEL PARDO** are hereby enjoined from posting, sharing, or otherwise disclosing by any means any information regarding this child and/or case on or to any form of media.
- 11.2. Placement with an appropriate family member is the first option, however if there is no appropriate family member then the Department will follow the advice of CASA and the Ad Litem, including placement in foster care.

12. Required Information

- 12.1. **IT IS ORDERED** that each Respondent to this cause provide to the Department and the Court, no later than thirty days from the date of this hearing, the information detailed below.
- 12.2. **IT IS ORDERED** that each Respondent provide the Department and the Court information sufficient to establish the parentage and immigration status of the child, including but not limited to marriage records, birth or death certificates, baptismal records, social security cards, records of lawful permanent residence ("green cards"), naturalization certificates, and any records from the United States Citizenship and Immigration Services, and records of Indian Ancestry or Tribal Membership.
- 12.3. **IT IS ORDERED** that each Respondent provide the Department with any information regarding whether the child or the child's family has Native American heritage and identify any Native American Tribe with which the child may be associated and provide all available family history information relevant to determination of Indian child status on request.
- 12.4. **IT IS ORDERED** that each Respondent furnish to the Department all information necessary to ensure the Department has an adequate medical history for the child, including but not limited to the immunization records for the child and the names and addresses of all physicians who have treated the child.
- 12.5. **IT IS ORDERED** that each Respondent provide the Department information regarding the medical history of the parent and parent's ancestors on the medical history report form, pursuant to § 161.2021, Texas Family Code.
- 12.6. **IT IS ORDERED** that each Respondent to this cause provide to the Department and the Court a current residence address and telephone number at which each can be contacted.
- 12.7. **IT IS ORDERED** that each Respondent to this cause notify the Department and the Court of any change in his or her residence address or telephone number within five (5) days of a change of address or telephone number.

- 12.8. **IT IS ORDERED** that each Respondent provide the Department information regarding the medical history of the parent and parent's ancestors on the medical history report form, pursuant to § 161.2021, Texas Family Code.

13. Duty To Provide Information

- 13.1. **IT IS ORDERED** pursuant to § 153.076(a), Texas Family Code that each conservator of a child has a duty to inform the other conservator of the child in a timely manner of significant information concerning the health, education, and welfare of the child.

- 13.2. **IT IS ORDERED** pursuant to § 153.076(b), Texas Family Code, that each conservator of the child has the duty to inform the other conservator if the conservator resides with for at least 30 days, marries, or intends to marry a person who the conservator knows:

13.2.1. is registered as a sex offender under Chapter 62, Code of Criminal Procedure; or

13.2.2. is currently charged with an offense for which on conviction the person would be required to register under that chapter.

- 13.3. The notice required to be made under § 153.076(b), Texas Family Code, must be made as soon as practicable but not later than the 40th day after the date the conservator of the child begins to reside with the person or the 10th day after the date the marriage occurs, as appropriate. The notice must include a description of the offense that is the basis of the person's requirement to register as a sex offender or of the offense with which the person is charged.

- 13.4. **IT IS ORDERED** pursuant to §153.076(b-1), Texas Family Code, that each conservator of **KALEB PARDO** has the duty to inform the other conservator of the child if the conservator:

13.4.1. Establishes a residence with a person who the conservator knows is the subject of a final protective order sought by an individual other than the conservator that is in effect on the date the residence with the person is established, pursuant to §153.076(b-1)(1), Texas Family Code; or

13.4.2. Resides with, or allows unsupervised access to a child by, a person who is the subject of a final protective order sought by the conservator after the expiration of the 60 day period following the date the final protective order is issued, pursuant to §153.076(b-1)(2), Texas Family Code; or

13.4.3. Is the subject of a final protective order issued after the date of the order establishing conservatorship, pursuant to §153.076(b-1)(3), Texas Family Code.

13.5. The notice required to be made under §153.076(b-1), Texas Family Code, must be made as soon as practicable but not later than:

13.5.1. The 30th day after the date the conservator establishes residence with the person who is the subject of the final protective order, if notice is required by §153.076(b-1)(1), Texas Family Code; or

13.5.2. The 90th day after the date the final protective order was issued, if notice is required by §153.076(b-1)(2), Texas Family Code; or

13.5.3. The 30th day after the date the final protective order was issued, if notice is required by §153.076(b-1)(3), Texas Family Code.

13.6. A CONSERVATOR COMMITS AN OFFENSE IF THE CONSERVATOR FAILS TO PROVIDE NOTICE IN THE MANNER REQUIRED BY SUBSECTIONS (b) AND (c), OR SUBSECTIONS (b-1) AND (c-1), AS APPLICABLE, OF § 153.076, Texas Family Code. AN OFFENSE UNDER THIS SUBSECTION (d) IS A CLASS C MISDEMEANOR.

13.7. "YOU HAVE THE RIGHT UNDER §262.102(d), TEXAS FAMILY CODE, TO BE REPRESENTED BY AN ATTORNEY. IF YOU ARE INDIGENT AND UNABLE TO AFFORD AN ATTORNEY, YOU HAVE THE RIGHT TO REQUEST THE APPOINTMENT OF AN ATTORNEY BY CONTACTING THE COURT AT COUNTY COURT AT LAW OF KAUFMAN COUNTY, {Court's Address}, , TEXAS {zip code}, () - . IF YOU APPEAR IN OPPOSITION TO THE SUIT, CLAIM INDIGENCE, AND REQUEST THE APPOINTMENT OF AN ATTORNEY, THE COURT WILL REQUIRE YOU TO SIGN AN AFFIDAVIT OF INDIGENCE AND THE COURT MAY HEAR EVIDENCE TO DETERMINE IF YOU ARE INDIGENT. IF THE COURT DETERMINES YOU ARE INDIGENT AND ELIGIBLE FOR APPOINTMENT OF AN ATTORNEY, THE COURT WILL APPOINT AN ATTORNEY TO REPRESENT YOU."

14. Notice of Status Hearing

IT IS ORDERED that this cause is set for a Status Hearing, pursuant to § 263.201

Texas Family Code, on August 9th, 2019, at 9:00 o'clock a.m. in the County Court at Law of Kaufman County in Kaufman, Texas.

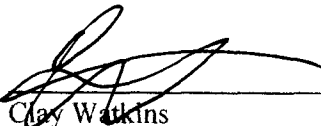
15. All said Temporary Orders shall continue in force during the pendency of this suit or until further order of the Court.

SIGNED this 24th day of July, 2019.

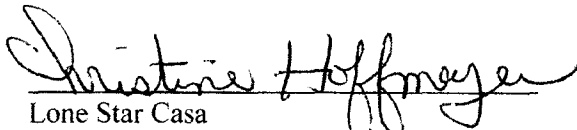


JUDGE PRESIDING

APPROVED AS TO FORM:



Clay Watkins
Attorney for Petitioner, Department of
Family and Protective Services



Kristine Hoffmeyer
Lone Star Casa
Guardian Ad Litem for the Child

Courtney Wortham
Attorney Ad Litem for the Child

Ashley Pardo
Mother of the Child

Daniel Pardo
Father of the Child

Chris Branson/Julie Jacobson
Attorney for Respondent Mother and Father

15. All said Temporary Orders shall continue in force during the pendency of this suit or until further order of the Court.

SIGNED this _____ day of _____, 2019.

JUDGE PRESIDING

APPROVED AS TO FORM:

Clay Watkins
Attorney for Petitioner, Department of
Family and Protective Services

Lone Star Casa
Guardian Ad Litem for the Child

Courtney Repka Wortham
Courtney Wortham
Attorney Ad Litem for the Child

Ashley Pardo
Mother of the Child

Daniel Pardo
Father of the Child

Chris Branson/Julie Jacobson
Attorney for Respondent Mother and Father

ATTACHMENT A - TEMPORARY VISITATION

16. Rights and Duties of Temporary Possessory Conservator

16.1. Each Temporary Possessory Conservator appointed in this Order shall have the following rights:

- 16.1.1. the right to receive information concerning the health, education, and welfare of the child;
- 16.1.2. the right to access to medical, dental, psychological, and educational records of the child;
- 16.1.3. the right to consult with a physician, dentist, or psychologist of the child;
- 16.1.4. the right to consult with school officials concerning the child's welfare and educational status, including school activities;
- 16.1.5. the right, during times of unsupervised possession, to consent for the child to medical, dental, and surgical treatment during an emergency involving immediate danger to the health and safety of the child; and
- 16.1.6. the right, during times of possession, to direct the moral and religious training of the child.

16.2. Each Temporary Possessory Conservator appointed in this Order shall have the following duties:

- 16.2.1. the duty, during periods of possession of the child which are not supervised by the Department or its designee, of care, control, protection, and reasonable discipline of the child; and
- 16.2.2. the duty to support the child, including providing the child with clothing, food, and shelter during periods of possession of the child which are not supervised by the Department or its designee.

17. Temporary Visitation Schedule: ASHLEY PARDO

17.1. The Court approves the Temporary Visitation Schedule presented by the Department. **ASHLEY PARDO** shall have possession and access as set forth in the Temporary Visitation Schedule. The Temporary Visitation Schedule shall remain in effect until the Visitation Plan is developed.

18. Temporary Visitation Schedule: DANIEL PARDO

- 18.1. The Court approves the Temporary Visitation Schedule presented by the Department. **DANIEL PARDO** shall have possession and access as set forth in the Temporary Visitation Schedule. The Temporary Visitation Schedule shall remain in effect until the Visitation Plan is developed.